18. (New) The system of claim 2, wherein the at least one support is constructed and arranged to be engaged to a surface of the emergency vehicle.

19. (New) The system of claim 1, the at least one support having a plurality of visible support sides, each of the visible support sides having at least one module receiving port.

20. (New) The system of claim 19 wherein the controller is constructed and arranged to selectively activate the at least one light emitting diode light source to create at least one warning light signal on each of the plurality of visible support sides, wherein the at least one warning light signal of each of the visible support sides is different.

REMARKS

In the Office Action of May 29, 2001, claims 1-15 were rejected under 35 U.S.C. §103(a) as being obvious over US 5410328 to Yoksza et al. (Yoksza) in view of US 4654629 to Bezos et al. (Bezos). However, the proposed combination of Yoksza and Bezos fails to teach or suggest all of the elements provided for in the instant claims. Neither Yoksza or Bezos teach or suggest a warning signal light system having a ***controller*** constructed and arranged to provide variable illumination intensity to each of the at least one support, the at least one module and the at least one light emitting diode light source.

In the Office Action, Yoksza is said to show a modular light system and Bezos is said to show a modular light system for use as a warning. The Office Action further states that Bezos further suggests the control of the of the plural modular light system by intensity control, and light pattern control. Even if Bezos were combined with Yoksza in the manner proposed, the resulting hybrid would not include or suggest all of the elements required in instant claim 1.

Bezos states that when light emitting diodes (LEDs) are arranged in certain patterns, and provided with an appropriate lens arrangement, a great variety of images can be

obtained. Such images include a light pattern of desired shape, color and intensity. The desired intensity of the light signal provided by Bezos is achieved by arrangement of the LEDs coupled with appropriate lenses (column 3, lines 1-8). Bezos does not teach a controller for providing variable light intensity.

A modular system having a variable arrangement of individual LEDs with lenses such as is suggested by the combination of Yoksza and Bezos, is significantly different from, not related to, and not the equivalent of, the modular warning light signal system of the present invention. Yoksza, Bezos and Yoksza in combination with Bezos fail to suggest, disclose or teach the utilization of a controller in electrical communication with the at least one LED, at least one module, and at least on support, where the controller provides variable illumination intensity to each of the at least one LED, at least one module, and at least one support.

In addition to the above, Applicant respectfully asserts that only when the present case is viewed through the lens of hindsight is motivation found to combine the cited references in the manner proposed in the Office Action. Such use of hindsight in establishing a §103 rejection is impermissible.

In the case of *In re Dembiczak*, 50 U.S.P.Q.2d 1614 (CAFC 1999), the Court of Appeals for the Federal Circuit has stated that the ultimate determination of whether an invention is or is not obvious is a legal conclusion based upon underlying factual inquiries including:

(1) The scope and content of the prior art;

(2) The level of ordinary skill in the prior art;

(3) The differences between the claimed invention and the prior art; and

(4) Objective evidence of non-obviousness.

The Court of Appeals for the Federal Circuit went on to state that the analysis with respect to obviousness is required to be conducted "at the time the invention was made" to guard against entry into the "tempting but forbidden zone of hindsight". The Court of Appeals for the Federal Circuit went on to state that the "very ease with which the invention can be understood may prompt one to fall victim to the insidious effect of a hindsight syndrome wherein

that which only the inventor taught is used against its teacher". The Court of Appeals for the Federal Circuit has stated that the case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is the rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references and that one of ordinary skill in the art would have been motivated to select the references and combine them, and it was error to not elucidate any factual teachings, suggestions, or incentives from the prior that showed the propriety of combination. The Federal Circuit in *Dembiczak* further stated that combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability which is the essence of hindsight.

In the present case, the Yoksza reference is directed to replacement modules for large-scale LED displays. There is nothing in Yoksza which suggests a need or desire to provide the support, the modules, or the LEDs themselves with variable illumination intensity. On the other hand, Bezos is likewise silent as to the use of a controller to provide variable illumination intensity to any portion of the marker light using a ***controller***. Instead, Bezos states only that a light pattern of a desired shape, color and intensity can be readily defined in a marker light by arranging LEDs in particular arrangements in combination with ***lenses*** (column 3 lines 1-8).

Because neither reference teaches or suggests the use of a controller to provide variable illumination intensity to each of the at least one support, the at least one module, and the at least one LED, without the use of hindsight provided by the present Application, one of ordinary skill in the art seeking to utilize a controller to provide variable illumination intensity to a modular warning light signal system would find no motivation or suggestion to combine the references in the manner proposed in the Office Action.

In addition to the above, Applicant has amended claim 2 and added claims 16-19 to the Application. The amendments and added claims are fully supported in the specification and contain no new matter. Support for the amendment to claim 2 may be found on page 7, line 23; support for claim 16 is found on page 8, lines 5-12; support for claim 17 is found in FIGs. 1,

2 and 13; support for claim 18 is found in FIGs. 6, 8, 10 and 33; support for claim 19 is found on page 13, lines 8-1. Additional support of the amendments and claims presented herein may found elsewhere in the Application as well.

FORMALITIES

If an extension of time is required to make this response timely and no separate petition is enclosed, Applicant hereby petitions for an extension of time sufficient to make the response timely. In the event that this response requires the payment of government fees and payment is not enclosed, please charge Deposit Account No. 22-0350.

CONCLUSION

In view of the foregoing it is believed that the present application, with claims 1-19 is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,
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MARKED COPY OF THE AMENDED CLAIMS *App. No. 09/605,801*

1. (Amended) A modular warning signal light system comprising:

at least one support, the at least one support having at least one module receiving port;

at least one module, the at least one module having at least one visible side, the at least one visible side having at least one light emitting diode light source engaged thereto, the at least one module having at least one support engagement member, the at least one support engagement member constructed and arranged to be removably received by the at least one module receiving port, the at least one module and the at least one light emitting diode light source in electric communication with one another and with the at least one support; and

a controller, the controller in electric communication with the at least one support, the at least one module and the at least one light emitting diode light source, the controller constructed and arranged to selectively activate the at least one light emitting diode light source to create at least one warning light signal, the controller constructed and arranged to provide variable illumination intensity to each of the at least one support, the at least one module and the at least one light emitting diode light source.

2. (Amended) The system of claim 1 wherein the controller is in further electrical communication with a power source of an emergency vehicle, the controller adapted to vary [power] illumination intensity provided to the selectively activated at least one light emitting diode light source.